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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/614,924

07/08/2003

Robert Radulescu

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BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
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EXAMINER

MAKI, STEVEN D

ART UNIT

PAPER NUMBER

1733

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/614,924

Applicant(s)

RADULESCU, ROBERT

Examiner

Steven D. Maki

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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- 1) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 2) Claims 4, 6 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 4, 6 and 9, there is no clear antecedent basis for "the ribs provided with incisions" and "the longitudinal grooves". How many ribs / grooves are required? Also, the relationship, if any between the "ribs not provided with incisions of varying inclination" and the ribs of claim 1 is unclear. In claim 4, it is suggested to make the following changes: (1) on line 1 after "wherein" insert --the two ribs forming the edges are not provided with incisions and--; (2) three lines from bottom, change "the ribs" to --the at least one intermediate rib--; and (3) on the last line, change "longitudinal grooves (2)" to --grooves of generally circumferential direction--.

- 3) Applicant is advised that should claim 6 be found allowable, claim 9 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claims 6 and 9 have the same scope.

- 4) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Havens

5) Claims 1-7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Havens (US 2261025) in view of German 697 (DE 19506697).

Havens and German 697 are applied as in paragraph 7 of the last office action dated 6-2-05 (paragraph 7 of the last office action dated 6-2-05 is incorporated herein by reference). As to claim 9, note comments on claims 4 and 6.

Applicant argues that there is no indication in figure 8 of German 697 of the direction of rotation of the tire, so there is no way of determining whether the radially inner point of each incision is located in front of the radially outer point of the incision as recited in present claim 1. This argument is not persuasive since (1) the claimed tread can be applied to a tire carcass such that the radially inner point of each incision is located behind the radially outer point of the incision and (2) the radially inner point of German 697's figure 8 incision is located in front of the radially outer point of the incision when the tire is rotated in one of the forward direction and the rearward direction and (2) the radially inner point of German 697's figure 8 incision is located behind the radially outer point of the incision when the tire is rotated in the other of the forward direction and the rearward direction. In other words, the description of "wherein a radially innermost point of each incision is located, relative to the rolling direction of the tire, in front of the point of the incision located on the running surface of the tread when new" in claims 1-9 (all directed to a "tread" per se) relates to intended use and fails to require

tread structure different from that suggested by Havens and German 697 (both directed to the use of slits of substantially zero width).

6) Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Havens (US 2261025) in view of German 697 (DE 19506697) as applied above and further in view of Europe 104 (EP 810104).

Europe 104 is applied as in paragraph 8 of the last office action dated 6-2-05 (paragraph 8 of the last office action dated 6-2-05 is incorporated herein by reference).

Lurois

7) Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lurois (US 5896905) in view of Europe 104 and optionally German 697.

Lurois, Europe 104 and German 697 are applied as in paragraph 9 of the last office action dated 6-2-05 (paragraph 9 of the last office action dated 6-2-05 is incorporated herein by reference). As to claim 9, note comments on claims 4 and 6.

Applicant comments that the angular relationship of each incision in Lurois is constant so that each incision is linear. Europe 104 appraises one of ordinary skill in the art that such incisions present a problem - as the tread wears the segments between the incisions become more rigid such that their mobility is reduced. See col. 2 lines 15-25 of Europe 104. This reduction in reduced mobility due to wear disclosed by Europe 104 is undesirable in Lurois since Lurois teaches that the segments between the incisions are sufficiently mobile so that the incisions can be reoriented during tire rotation to a lesser inclination to improve wear life of the tread.

Applicant argues that there is no motivation from Europe 104 which would lead an artisan to provide Lurois's tires with the incisions of Europe 104 because Lurois and Europe 104 are intended to deal with problems that are different. This argument is not persuasive. Lurois and Europe 104 share the common subject matter of providing a tire tread with incisions, which are inclined at angle with respect to a line perpendicular to the tread surface. Lurois and Europe 104 use the incisions for the same purpose - improving longitudinal adherence (grip) on a road surface. See col. 1 lines 39-51, 56-60, col. 2 lines 10-15 of Lurois and col. 1 lines 3-6 of Europe 104. Lurois and Europe 104 are both directed to the problem of wear of the edges of the incisions. See col. 1 lines 60-65 of Lurois and col. 1 line 40 to col. 2 line 24 and column 4 of Europe 104. Europe 104 motivates one of ordinary skill in the art to increase the inclination of Lurois' incisions with respect to the radial direction toward the bottom of the incision for the benefit of reducing wear at the edges of the incisions and obtaining good braking and traction properties.

With respect to claims 4 and 6, applicant's argument that the references do not remotely suggest the claimed relationship is not persuasive since the claimed relationship reads on and fails to require a pitch p different from pitch of 0.005 to 0.013 times the circumferential length of the tire suggested by Lurois.

Remarks

- 8) Applicant's arguments filed 9-2-05 have been fully considered but they are not persuasive.
- 9) No claim is allowed.

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10) Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven D. Maki
November 20, 2005


STEVEN D. MAKI 11-20-05
PRIMARY EXAMINER